IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

C.R. No. 4867 of 2006 (O&M)
Date of Decision : 17.11.2007

M/s New Rialto Cinema Pvt. Ltd.

.....Petitioner

Versus

Dharamvir Katyal & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.D.S. Patwalia, Advocate
for the petitioner.

Ms. Deepali Puri, Advocate with
Mr. Rakesh Gupta, Advocate
for the respondents.

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VINOD K. SHARMA, J. (ORAL)

This revision petition has been filed against the order dated 8.6.2006 passed by the learned Rent Controller, Amritsar assessing the provisional rent payable by the tenant in a petition filed under Section 13 of the East Punjab Urban Rent Restriction Act for eviction of the petitioner from the property known as New Rialto Cinema Pvt. Ltd., Court Road, Opposite General Post Office, Amritsar.

The learned Rent Controller has assessed the rent at Rs. 980/- (Rupees nine hundred and eighty only), which was admitted rent between the parties and payable to each of the landlord. Rent has been provisionally assessed w.e.f. 1.2.1974.

The grievance of the petitioner is that the learned Rent Controller was in error in assessing the rent provisionally w.e.f. 1.2.1974, on the plea that on earlier occasion suit filed by the respondent landlord for

recovery of rent w.e.f. 1.2.1974 to 31.7.1978 was dismissed by learned lower appellate Court, though the suit was decreed by trial Court.

The petitioner cannot draw any benefit of the said judgment and decree as the civil Court in the said case was pleased to hold that the claim was time barred. However, for the purposes of East Punjab Urban Rent Restriction Act limitation would not come in play as on account of non-payment of rent ejectment has to be ordered and no recovery decree is to be passed.

The learned counsel for the petitioner also contended that in a resolution passed by the company i.e. the tenant it was stipulated that landlords who have failed to deposit the demanded money payable to the company being Director would not be entitled to recover the rent.

The arrangement by the company is between the Directors and company inter se in the working of the company and cannot be basis for non-payment of rent which is statutorily payable. The resolution may give right to the company to recover the amount payable by the Directors under the resolution, but it does not authorise the company to refuse the payment of rent which is statutorily payable to save eviction, therefore, no benefit of this plea is available to petitioner.

The learned counsel for the petitioner thereafter contended that four years rent already stood paid in a winding petition where the matter was compromised. However, the copy of the order placed on record, shows that it was a settlement between the parties which does not in any way depict the payment of rent. The order further shows that it was an arrangement in a winding petition to avoid the order the publication of the petition and did not in any way adjudicate upon the rights of the parties to

claim rent under different laws applicable.

Nothing was placed on record to show if any payment under the said settlement in fact was paid to the landlord as assessed provisionally by the learned Rent Controller.

In case the petitioners are able to show the payment of any amount under the said settlement then they will be entitled to adjustment at the time of final adjudication of petition.

No ground for interference by this Court in revision petition is made out.

Dismissed.

17.11.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**